

Jenifer L. Tomchak (10127)
Nicole A. Skolout (10223)
TOMCHAK SKOLOUT LAW
10 West 100 South, Suite 700
Salt Lake City, Utah 84101
Telephone: (801) 831-4820
jen.tomchak@tomchaklaw.com
nicole.skolout@tomchaklaw.com

Attorneys for Plaintiff Invasix, Inc. d/b/a InMode

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION**

INVASIX, INC. d/b/a., INMODE, a Delaware
corporation,

Plaintiff,

vs.

MEGAN HAYES, an individual; SKYLER
HAYES, an individual; and ASCENT
AESTHETICS, LLC, a Utah limited liability
company,

Defendants.

**APPLICATION FOR WRIT OF
EXECUTION**

Case No. 1:23-cv-00084-JNP-CMR

Judge Jill N. Parrish

Magistrate Judge Cecilia M. Romero

REQUESTED RELIEF

Pursuant to Rule 69 of the Federal Rules of Civil Procedure, Plaintiff Invasix, Inc. d/b/a InMode (“InMode”), by and through its undersigned counsel, hereby moves for a writ of execution, ordering that certain property be seized and returned to InMode and/or sold at a sheriff’s sale and applied to the judgment. Defendants Megan Hayes, Skyler Hayes, and Ascent Aesthetics, LLC (“Ascent”) (collectively, “Defendants”) used fraud to steal three machines from

InMode and, thereafter, refused to return the machines. A final judgment was entered against Defendants, jointly and severally, for \$260,717.64 on November 29, 2023. Defendants have made no payment towards that judgment.

InMode now wishes to begin collection efforts and execute the judgment by seizing control of Defendants' personal property to satisfy the judgment.

GROUND THEREFOR

“At the commencement of and throughout an action, every remedy is available that, under the law of the state where the court is located, provides for seizing a person or property to secure satisfaction of the potential judgment.” Fed. R. Civ. P. 64. If a judgment has not been paid within 28 days after the judgment is entered, a party may seek to enforce it through execution or other writs. Utah R. Civ. P. 62(a). “A money judgment is enforced by a writ of execution, unless the court directs otherwise.” Fed. R. Civ. P. 69(1). The procedure for doing so “must accord with the procedure of the state where the court is located.” Fed. R. Civ. P. 69(1). Under Rule 64E of the Utah Rules of Civil Procedure, “[a] writ of execution is available to seize property in the possession or under the control of the defendant following entry of final judgment or order requiring the delivery of property or the payment of money.” Utah R. Civ. P. 64E(a). Here, InMode seeks both a writ of execution ordering the delivery of the 3 stolen machines to InMode and authorizing the seizure of other personal property to enforce the judgment.

Below is the completed Utah Application for Writ of Execution, including information to satisfy all of the requirements under Utah Rules of Civil Procedure 64E(b).¹ Additionally, InMode attaches hereto the following documents necessary to further satisfy Rule 64E(d):

¹ Rule 64E(b) requires the plaintiff to file an application stating: (b)(1) the amount of the judgment or order and amount due on the judgment or order; (b)(2) the nature, location, and estimated value of the property; and (b)(3) the

- Exhibit A - Writ of Execution (proposed) for each person named in paragraphs 3 and 5 of this application.
- Exhibit B - Notice of Execution and Exemptions for each person named in paragraphs 3 and 5 of this application.
- Exhibit C - Reply and Request for Hearing Form for each person named in paragraphs 3 and 5 of this application.

**UTAH APPLICATION FOR WRIT OF EXECUTION
(Utah Rule of Civil Procedure 64E)**

1. On November 29, 2023 judgment against [] plaintiff/petitioner
[X] defendant/respondent was entered in the amount of \$260,717.64.

2. The amount due is:

Amount of original judgment	\$260,717.64
Post-judgment interest www.utcourts.gov/resources/intrates/interestrates.htm 6.73% from Nov. 29, 2023	\$3,989.98
Cost to file Application for Writ of Execution	\$425.00
Cost to serve this writ	\$62.50
Filing and service fees for other writs (Attach receipts.)	\$
Subtotal	\$265,195.12
Less payments made	\$0.00
Total amount due	\$265,195.12

3. The judgment debtors are:

Name	Megan Hayes Skyler Hayes Ascent Aesthetics, LLC
Address	2245 N. 400 E., Suite 303 North Logan, UT 84341 435-512-9559 1015 N. 510 W., Unit No. 4 Logan, UT 84341

name and address of any person known to the plaintiff to claim an interest in the property. Utah R. Civ. P. 64E(b).

Social Security Number (Last 4 digits only, if known.)	Megan Hayes - 6870 Skyler Hayes – Unknown Ascent Aesthetics, LLC - NA
Driver's license number and state of issuance (Last 4 digits only, if known.)	Unknown
Year and month of birth (If known.)	Megan Hayes – May 1996 Skyler Hayes – Unknown Ascent Aesthetics, LLC - NA

4. InMode requests that a Writ of Execution be issued directing the sheriff or constable to (1) seize the judgment debtor's property described below; (2) deliver items a, b, and c to InMode for a credit of \$126,600.02 towards the judgment; and (3) sell enough of the remaining items to satisfy the judgment. InMode requests that the Writ be served on the debtors and on the people named in paragraphs 5, along with the attached forms.
5. InMode request that the Writ of Execution direct the sheriff or constable to seize and sell the debtors' following **personal** property: (Anything that can be owned other than real estate. List real estate information in the next section.)

Description	Location	Estimated value
a. EvolveX Hands Free System with Tite Hands Free Skin Remodeling, Transform Hands Free Body Contouring, and Tone Hands Free EMS applicators	2245 N. 400 E., Suite 303 North Logan, UT 84341 435-512-9559	\$54,535.39
Name & address of anyone other than debtor claiming an interest:	Altabank, Division of Glacier Bank 2174 W. Grove Parkway, Ste 125 Pleasant Grove, UT 84062 Corporation Service Company 801 Adial Stevenson Drive Springfield, IL 62703	
b. Morpheus8 System with M8 and M8 body applicator and tips	2245 N. 400 E., Suite 303 North Logan, UT 84341 435-512-9559	\$35,058.47
Name & address of anyone other than debtor claiming an interest:	Altabank, Division of Glacier Bank 2174 W. Grove Parkway, Ste 125 Pleasant Grove, UT 84062 Corporation Service Company 801 Adial Stevenson Drive Springfield, IL 62703	
c. Triton System with Diolaze XL 755/810 applicator	2245 N. 400 E., Suite 303 North Logan, UT 84341 435-512-9559	\$37,006.16
Name & address of anyone other than debtor claiming an interest:	Altabank, Division of Glacier Bank 2174 W. Grove Parkway, Ste 125	

Description	Location	Estimated value
	Pleasant Grove, UT 84062 Corporation Service Company 801 Adial Stevenson Drive Springfield, IL 62703	
d. Empower System with Morpheus8V handpiece, vTone adapter, FormaV handpiece, Morpheus8 handpiece, and tips		\$62,790.70
Name & address of anyone other than debtor claiming an interest:	Altabank, Division of Glacier Bank 2174 W. Grove Parkway, Ste 125 Pleasant Grove, UT 84062 Corporation Service Company 801 Adial Stevenson Drive Springfield, IL 62703	
e. Triton System with Triton Duo Light 755/810 and Triton Duo Dark 810/1064 applicators		\$49,709.31
Name & address of anyone other than debtor claiming an interest:	Altabank, Division of Glacier Bank 2174 W. Grove Parkway, Ste 125 Pleasant Grove, UT 84062 Corporation Service Company 801 Adial Stevenson Drive Springfield, IL 62703	

InMode further represents that it has or will pay the fees to the Sheriff, Constable or Private Investigator who will be serving the Writ and any necessary filing fees.

CONCLUSION

Having satisfied the Requirements of Utah Rules of Civil Procedure 64E, the Court should issue the writ of execution and order an officer of the Court to seize the Property. Specifically, the Court should order the Sheriff of Cache County, where the Property is located, to serve Defendants and the parties listed in Paragraphs 3 and 5 with a copy of the writ (Exhibit A) and required attachments (Exhibits B and C) and to seize the property identified in Paragraph 5. Utah R. Civ. P. 64(d)(3)(B). Then, within 14 days, the officer shall return the writ to the court with proof of service and an inventory of the property that was seized. Utah R. Civ. P.

64(d)(3)(C). The officer shall hold the Property until either (a) the time for a reply has expired or (b), if a reply is filed within 14 days from the date of this filing, after an evidentiary hearing and order of the Court. Utah R. Civ. P. 64E(d).

If the Court requires additional information or action to enter the Writ of Execution, it can, and should, order Defendants not to transfer, dispose of, or otherwise interfere with the Property listed herein until after the Court holds a hearing on or otherwise decides this matter. See Utah R. Civ. P. 64(c)(3).

RESPECTFULLY SUBMITTED this 21st day of February, 2024.

TOMCHAK SKOLOUT LAW

/s/ Jenifer L. Tomchak
Attorney for Plaintiff InMode, Inc. d/b/a InMode

Certificate of Service

I hereby certify that on this 21st day of February 2024, I electronically filed the foregoing Application for Writ of Execution using the ECF system, and served the forgoing document on the following non-ECF members by depositing the same in the U.S. Mail:

Person's Name	Service Method	Service Address	Service Date
Megan and Skyler Hayes	[X] Mail	1015 N. 510 W., Unit No. 4 Logan, UT 84341	2-21-2024
Ascent Aesthetics, LLC	[X] Mail	2245 N. 400 E, Suite 303 North Logan, UT 84341	2-21-2024
Altabank, Division of Glacier Bank	[X] Mail	2174 W. Grove Parkway, Ste 125 Pleasant Grove, UT 84062	2-21-2024
Corporation Service Company	[X] Mail	801 Adial Stevenson Drive Springfield, IL 62703	2-21-2024

2/21/2024

Date

Signature ►

Printed Name Jenifer L. Tomchak